

03-03-06

11W/637



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

(Attorney Docket No. 01-1096)

Re Application of:

Fritz et al.

Examiner S. Chunduru

Serial No. 09/780,206

Filed: February 9, 2001

Group Art Unit: 1637

For: System for Simple Nucleic
Acid Analysis

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In regard to the above identified application,

1. We are transmitting herewith the attached:

- a) Supplemental Amendment and Response to the Office Action Mailed August 12, 2005; and
- b) Return receipt postcard.

2. With respect to fees:

- a) No fee is required.
- b) The Commissioner is hereby authorized to charge our Deposit Account, No. 13-2490 for any fees which may be required or to credit any overpayment.

Respectfully submitted,

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CERTIFICATE OF MAILING (37 C.F.R. 1.8a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as U.S. Express Mail No.: EV722673688US in an envelope addressed to the: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on March 2, 2006.



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**SUPPELEMENTAL AMENDMENT AND RESPONSE TO
THE OFFICE ACTION MAILED AUGUST 12, 2005**

In Response to the Office Action mailed August 12, 2005, and the Communication mailed February 2, 2006, please enter the following Amendments consider following Remarks.

Applicants filed an Amendment along with an Interview Summary and Notice of Appeal on January 9, 2006. Applicants intended that the Amendment put the claims in a condition for appeal pursuant to 37 C.F.R. § 41.33. The Communication of February 2, 2006 explained that the Notice of Appeal was premature because the Office considers that the Amendment was filed before the Notice of Appeal, and that the Amendment was non-compliant because it did not include any argument.

Applicants' undersigned representative spoke to Mr. Gary Benzion, Supervisory Patent Examiner, on February 7, 2006, and to Ms. Joni Chang of the Office of Legal Affairs on February 22, 2006. In both conversations, Applicants explained their intentions

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regarding the Amendment filed January 9, 2006 and asked that the Office consider the Amendment to be filed after the Notice of Appeal. The Applicants were informed, however, that the Office entered the Amendment as if it were filed before the Notice of Appeal and, therefore, could not be withdrawn. The Applicants, therefore, submit this Supplemental Amendment, which assumes that the Amendment that the Applicants filed on January 9, 2006 has already been entered. The current Amendment adds three new claims, which Applicants would have added to the Amendment filed January 9, 2006 had they known that the claims would be examined. If this is not the case, then Applicants request that the Examiner contact the Applicants undersigned representative to make sure there is no misunderstanding regarding the Amendments.